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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,100	02/13/2004	Kuang-Chang Yu	MR2349-989	4545
4586	7590	09/30/2005	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			CARIASO, ALAN B	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

**Office Action Summary**

Application No.

10/777,100

Applicant(s)

YU, KUANG-CHANG

Examiner

Alan Cariaso

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:
2. Page 3, line 22, "glasses" is an incorrect term in defining the material of the tube.
3. Page 4, line 4, "broke" is an incorrect term in defining the condition of the tube.
4. Page 4, lines 10-11, the phrase "Sizes and quantities of the recess or the through hole depend on experience;" is not clear in meaning.
5. Page 4, line 11, the terms "is has" are one too many verbs in that phrase.  
Appropriate correction is required.

### ***Claim Objections***

6. Claim 2 is objected to because of the following informalities: Claim 2, line 2, "glasses" is an incorrect term in defining the material of the tube. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over SIDDONS (US 2002/0058090 A1) in view of MOHAN et al (US 4,379,320).

9. SIDDONS discloses a food product stick (14) comprising: a plastic stick body (22) having a longitudinal receiving cavity in which are disposed a fluorescent material (paragraphs 0025-0026), a breakable airtight tube ("capsule" paragraph 0019) containing a first solution and a second solution contained between the plastic stick body (22) and the breakable airtight tube ("capsule", paragraph 0019); a conjunction structure (16,20 in fig.1) connects an end (16) of the stick body (14,22) and being concave (16,fig.1 or "hook"-shape in p.0013) and convex (cross section to be oval, polygonal in p.0013) for combining with an analogous sugary food product (12, p.0003 and p.0013); the conjunction structure (16,20) has at least one recess (aperture 20, fig.1) formed on and penetrating through the conjunction structure (p.0014).

10. However, SIDDONS does not disclose: coating of the fluorescent layer on an interior wall of the stick body. MOHAN teaches at least one fluorescer incorporated in the walls of the container or plastic sleeve that surrounds the sealed tube (col.1, lines 31-45) (figs.3-4) for the purpose of activating the light emitted from the chemiluminescent mixture without the need to have the fluorescer incorporated as a component of the chemiluminescent mixture.

11. It would have been obvious to one having ordinary skill at the time of the invention to modify the food product chemiluminescent stick device of SIDDONS to include the type of fluorescer incorporated in the walls of the container as taught by MOHAN et al in order to activate the light emitted by the chemiluminescent mixture without the need to have the fluorescer incorporated as a component in the chemiluminescent mixture because the efficiency of these mixtures has been unduly

low, that the fluorescer is found to be unstable in the reaction mixture (col.1, lines 26-30).

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over SIDDONS (US 2002/0058090 A1) in view of MOHAN et al (US 4,379,320) as applied to claim 1 above, and further in view of MIRON (US 3,875,602).

13. SIDDONS discloses the claimed invention except the breakable airtight tube made of glasses.

14. MIRON teaches an inner tube (7,8) made of glass (col.7, lines 30-31) as a preferred material for the purpose of it being rigid, breakable or frangible material that facilitates purposeful breakage to mix the chemiluminescent components contained within the inner tube (7,8) and outside the inner tube.

15. It would have been obvious to one having ordinary skill at the time of the invention to modify the food product chemiluminescent stick device of SIDDONS to include the type of glass inner tube as taught by MIRON in order to facilitate breakage of the tube to mix the chemiluminescent components which cause light emission.

16. Claim 3 is are rejected under 35 U.S.C. 103(a) as being unpatentable over SIDDONS (US 2002/0058090 A1) in view of MOHAN et al (US 4,379,320) as applied to claim 1 above, and further in view of LACKNEY (US 5,223,259).

17. SIDDONS discloses the claimed invention except the conjunction structure having a screwed thread formed on an exterior surface.

18. LACKNEY teaches a support stick (36, fig.27) that includes a screw or helical screw thread (58,59) formed at the end of the support stick for the purpose interlocking bonds with the oral medicament enhanced by the threaded structure (col.7, lines 10-18).

19. It would have been obvious to one having ordinary skill at the time of the invention to modify the food product chemiluminescent stick device of SIDDONS to include the type of threaded end as taught by LACKNEY in order to enhance interlocking of the food product or oral-ingested product to the support stick or further control the degree of dissolving of the product during oral ingesting.


### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. KIKOS (US 5,383,100) teaches fluorescent dye or pigment embedded or incorporated in the wall of the tube (8) (col.9, lines 43-62) and another fluorescent dye formed as lining (18) of one of the interior channels (9,10) (col.9, line 62 to col.10, line 20), and further including breakage of ampoules (19a,19b) in tube 8 (figs.9-11) to mix together to produce light (col.10). ESKER et al (US 5,946,773) and KIELY (US 20020155196) (fig.15A shows a threaded form) show lollipop sticks with various conjunction structures allowing bonding of the stick end with the candy or cookie. PLANTE (US 6,471,364) and CLARK (US 6,572,244) show other food products supported by chemiluminescent sticks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso  
Primary Examiner  
Art Unit 2875

September 29, 2005  
AC